

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Blandena Pinckney,	)	
	)	
	)	
	)	Civil Action No. 2:04-2393-12
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
Cigna Healthcare of South Carolina, Inc.,	)	
	)	
Defendant.	)	
	)	

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This action arose from the plaintiff's claim that the defendant has refused to pay benefits to the plaintiff owed under a group benefit plan of which the defendant is the insurer. On January 27, 2005, the defendant filed a motion for summary judgment claiming that ERISA preempts the plaintiff's claim and that the plaintiff's claim is barred for failing to exhaust the remedies provided under the group benefit plan as is required under ERISA.

The parties have agreed that the plaintiff has not exhausted the remedies provided under the group benefit plan, and both parties have requested the Court to dismiss the action without prejudice to allow the plaintiff to pursue these remedies.

Accordingly, under Rule 41(a)(2) of the Federal Rules of Civil Procedure, the Court dismisses this action without prejudice.

**AND IT IS SO ORDERED.**

April 27, 2005  
Charleston, South Carolina

s/ C. Weston Houck  
**C. WESTON HOUCK**  
**UNITED STATES DISTRICT JUDGE**